

Message Text

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ACTION NEA-10

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C O N F I D E N T I A L KATHMANDU 0058

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FOR NEA DEPUTY ASSISTANT SECRETARY DUBS FROM AMBASSADOR

E.O. 11652: GDS
TAGS: SHUM, NP
SUBJECT: HUMAN RIGHTS IN NEPAL

REF: 77 KATHMANDU 5621, 77 STATE 307553

1. I HAVE JUST RECEIVED IN THE POUCH FROM BRON PERCIVAL, UNDER COVER OF A TRANSMITTAL SLIP DATED DECEMBER 15, WHAT IS DESCRIBED AS "THE FINAL AND PUBLIC VERSION OF THE UNCLASSIFIED HUMAN RIGHTS PAPER" ON NEPAL. IT DIFFERS SOMEWHAT, INCLUDING HAVING AN INTRODUCTORY SECTION, FROM THE VERSION BRON RECENTLY POUCHED TO JACK EAVES, WHICH IN TURN WAS A FULLER VERSION OF THE TEXT CONTAINED IN STATE 289424. FOLLOWING OUR RECEIPT OF STATE 289424 AND OF THE FIRST POUCHED COPIES OF BOTH THE UNCLASSIFIED AND CLASSIFIED NEPAL COUNTRY EVALUATIONS, WE PRELIMINARILY SUGGESTED THE NEED FOR SOME MODIFICATIONS IN THE "ARBITRARY ARREST AND IMPRISONMENT" SECTIONS OF BOTH PAPERS AND EXPRESSED THE ASSUMPTION WE WOULD HAVE AN OPPORTUNITY TO COMMENT ON THE FINAL DRAFTS BEFORE THEY WERE SUBMITTED. STATE 307553 INFORMED US OF CONCURRENCE IN OUR SUGGESTED MODIFICATIONS OF THE CLASSIFIED VERSION, BUT SAID THAT REVISION OF
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THE UNCLASSIFIED PAPER WAS NOT POSSIBLE AS IT HAD ALREADY GONE TO THE PRINTERS.

2. APART FROM THE DELAY IN OUR RECEIPT OF THESE PAPERS (IT TOOK JUST ONE DAY SHORT OF THREE WEEKS FOR "THE FINAL AND PUBLIC VERSION" TO REACH KATHMANDU), I AM CONCERNED OVER SEVERAL ASPECTS OF THE UNCLASSIFIED VERSION ESPECIALLY.

IN THE FIRST PLACE, IT CONTAINS INACCURACIES. THE STATEMENT IN SECTION 1(C) THAT ONLY TWO PRISONERS CONTINUE TO BE TECHNICALLY HELD UNDER THE SECURITY ACT IS INCORRECT. WE SUGGESTED MODIFICATIONS OF THIS SECTION, AND THE REASONS THEREFORE, IN KATHMANDU 5621. IN ADDITION, IN SECTION 5, THE FREEDOM HOUSE CHARACTERIZATION OF NEPAL AS "NOT FREE" IS NO LONGER ACCURATE AS FREEDOM HOUSE HAS RECENTLY SHIFTED NEPAL TO THE "PARTLY FREE" COLUMN, PRESUMABLY ON THE BASIS OF ACTIONS TAKEN BY HMG IN RECENT MONTHS TO RELEASE POLITICAL PRISONERS AND TO LIFT RESTRICTIONS ON PREVIOUSLY-BANNED NEWSPAPERS. I BELIEVE THAT FAILURE TO CORRECT THESE TWO MISSTATEMENTS, ESPECIALLY THE LATTER, WILL NOT ONLY DETRACT FROM THE QUALITY OF THE REPORT BUT ALSO IMPAIR ITS CREDIBILITY WITH THE NEPALESE.

3. A SECOND ASPECT OF THE UNCLASSIFIED REPORT WHICH CONCERNS US IS THE EXTENT TO WHICH IT PUTS THE FINGER DIRECTLY ON THE KING OR THE PALACE. THIS SPOTLIGHTING OF THE KING AND THE PALACE IS, IN MY VIEW, BOTH UNDESIRABLE AND UNNECESSARY, AS THE SAME POINTS CAN BE MADE WITHOUT GOING OUT OF OUR WAY TO PERSONALIZE RESPONSIBILITY AND THEREBY RISK JEOPARDIZING THE DIALOGUE WHICH I HAVE BEGUN WITH THE KING ON HUMAN RIGHTS. FOR EXAMPLE, THE LAST SENTENCE OF THE INTRODUCTION REFERS SPECIFICALLY AND RATHER PEJORATIVELY TO THE "KING AND HIS ENTOURAGE". THE SAME BASIC POINT AS TO THE SOURCE OF AUTHORITY IN

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NEPAL IS MADE MORE STRAIGHTFORWARDLY IN THE FIRST SENTENCE OF PARA 2, SO THAT THE STATEMENT IN THE INTRODUCTION

SEEMS AT BEST REDUNDANT AND AT WORSE UNNECESSARILY OFFENSIVE. SIMILARLY, IN PARA 1(D), I QUESTION THE DESIRABILITY OF AGAIN SINGLING OUT THE KING AND WONDER WHY THE POINT CANNOT ADEQUATELY BE MADE BY SAYING THAT "JUDGES ARE, HOWEVER, BEHOLDEN TO THE GOVERNMENT AND IT WOULD BE HIGHLY UNLIKELY FOR A JUDGE TO RULE AGAINST THE GOVERNMENT IN A POLITICAL PROSECUTION". AGAIN, IN PARA 2, THE STATEMENT THAT "POLITICAL PARTIES WERE BANNED BY THE KING IN 1960" COULD PRESUMWRLY JUST AS EFFECTIVELY READ "POLITICAL PARTIES WERE BANNED IN 1960", OR, IF FULLER DETAIL IS CONSIDERED NECESSARY, SHOULD MORE ACCURATELY READ "POLITICAL PARTIES WERE BANNED BY THE LATE KING MAHENDRA IN 1960". FURTHER IN PARA 2(A), COULD NOT THE POINT THAT "ALL ASSOCIATIONS...ARE DIRECTLY INFLUENCED BY THE PALACE" BE MADE EQUALLY IMPRESSIVELY BY SAYING THEY ARE "DIRECTLY INFLUENCED BY THE GOVERNMENT". FINALLY, PARA 2(C) POINTS THE FINGER AT THE PALACE TWICE, IN THE LAST AND PENULTIMATE SENTENCE, RESPECTIVELY. CERTAINLY IN THE LAST SENTENCE NOTHING WOULD BE LOST BY

SUBSTITUTING "GOVERNMENT" FOR "PALACE". THE DISTINCTION BETWEEN "PALACE" AND GOVERNMENT" (IN THE SENSE OF THE COUNCIL OF MINISTERS AT ANY GIVEN TIME) IN THE NEXT TO THE LAST SENTENCE IS A VALID ONE, AND WE COULD LIVE WITH IT IF THAT WERE THE ONLY DIRECT REFERENCE TO THE "PALACE" IN THE PAPER.

4. THE MAJOR POINT SEEKING TO BE MADE IN THESE STQATEMENTS WHICH I HAVE CITED IN PARA 3 IS, I TAKE IT, THAT SOME RESTRICTIONS ON VARIOUS POLITICAL AND CIVIL LIBERTIES DO EXIST. BUT I BELIEVE THE POINT CAN BE MADE JUST AS COGENTLY WITHOUT SINGLING OUT THE KING OR THE PALACE ON SO MANY OCCASIONS.

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5. I VERY MUCH HOPE IT WILL BE POSSIBLE FOR THE CHANGES SUGGESTED ABOVE TO BE MADE. I DO NOT BELIEVE THEY WATER DOWN THE IMPACT OF THE REPORT, BUT WILL RATHER RESULT IN A MORE CREDIBLE ASSESSMENT WHICH WILL ALSO NOT UNDERMINE THE EFFORTS ALREADY UNDERWAY TO INFLUENCE HIS MAJESTY'S GOVERNMENT TOWARDS GREATER LIBERALIZATION AND PROGRESS IN HUMAN RIGHTS OBSERVANCE.
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